



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2021-0472; FRL-9646-01-R4]

#### Air Plan Approval; North Carolina;

#### Repeal of Delegation Authority

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of North Carolina's Department of Environmental Quality (DEQ), Division of Air Quality (DAQ or Division), via a letter dated April 13, 2021. This proposed rulemaking addresses the repeal of a State regulation related to delegation of authority and removal of the regulation from the North Carolina SIP. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2021-0472 at [www.regulations.gov](https://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file

sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit [www2.epa.gov/dockets/commenting-epa-dockets](http://www2.epa.gov/dockets/commenting-epa-dockets).

**FOR FURTHER INFORMATION CONTACT:** Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8966. Mr. Febres can also be reached via electronic mail at [febres-martinez.andres@epa.gov](mailto:febres-martinez.andres@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On April 13, 2021, the State of North Carolina submitted changes to the North Carolina SIP for EPA's approval.<sup>1</sup> Specifically, EPA is proposing to approve changes to the North Carolina SIP related to 15A North Carolina Administrative Code (NCAC) Subchapter 02D, Rule .0615, *Delegation*.<sup>2</sup> The April 13, 2021, SIP revision seeks to remove the aforementioned regulation from the SIP because the regulation is unnecessary and has been repealed at the state level.

### **II. Analysis of the State's Submittal**

The April 13, 2021, SIP revision seeks to remove 15 NCAC 02D, Rule .0615 – *Delegation*, from the North Carolina SIP. Rule .0615 provides that the Director of the DAQ has the authority to delegate his or her administrative and approval functions under Section 02D .0600, *Monitoring: Recordkeeping: Reporting*, to other officials in the Division. North Carolina states in its April 13, 2021, submittal that this rule is unnecessary and was repealed at the state

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<sup>1</sup> EPA received the submittal on April 14, 2021, and for clarity, refers to the submission per its "letter date" of April 13, 2021, throughout this notice.

<sup>2</sup> EPA notes that the Agency received several revisions to the North Carolina SIP that were transmitted with the same April 13, 2021, cover letter. EPA will be considering action for these other SIP revisions in separate rulemakings.

level. EPA is proposing to approve the removal of Rule .0615 from the SIP for these reasons and because removal will not impact emissions or interfere with attainment and maintenance of the NAAQS or any other applicable requirement of the Act.

### **III. Incorporation by Reference**

In this document, EPA is proposing to include in a final EPA rule amended regulatory text that includes incorporation by reference. EPA is proposing to remove 15A NCAC 02D, Rule .0615 – *Delegation*, state effective on November 1, 2020, from the North Carolina State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make, the State Implementation Plan generally available at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

### **IV. Proposed Action**

EPA is proposing to approve changes to the North Carolina SIP. Specifically, for the reasons described above, EPA is proposing to approve the removal of 15 NCAC 02D, Rule .0615 – *Delegation*, from the North Carolina SIP.

### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
  - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
  - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
  - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by

Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: March 25, 2022.

Daniel Blackman,  
*Regional Administrator,*  
*Region 4.*

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